

Before Sandeep Moudgil, J.

RAM CHANDER YADAV AND OTHERS—Petitioner

versus

PUNJAB NATIONAL BANK & ANOTHER—Respondents

CWP No. 29008 of 2019

March 11, 2026

Constitution of India, 1950—Art. 226—Punjab National Bank (Employees) Pension Regulations, 1995—Regulation 2(d)&(s), 35, 38—Petitioners sought pension based on average emoluments drawn during previous 10 months counting service rendered in Gramin Banks sponsored by Respondent-Bank for pension purpose.

Whether the Bank could ignore actual pay and compute pension on lower, notional figure? Whether deputation to Regional Rural Banks could be counted as service?

During last ten months prior to retirement Petitioners drawing a particular rate of basic pay, which was the basis of Provident Fund contribution. This fell within "pay" for the purpose of Regulation 2 (s). That pay averaged over last ten months constitutes "average emoluments" under Regulation 2(d) read with Regulation 38. Basic pension is to be fixed at 50% thereof as per Regulation 35. Deputation to Regional Rural Banks is to be counted as service.

Delay and laches cannot defeat the claims being continuing under-payment of pension. Petition allowed. Arrears to be released with 6% interest.

Held, that once it is found, as it must be on the admitted facts, that during the last ten months prior to retirement the petitioners were drawing a particular rate of basic pay in the RRBs and that such pay was the basis for Provident Fund contribution under the arrangement obtaining between the sponsor Bank and the RRBs, it necessarily falls within “pay” for the purposes of Regulation 2(s). That pay, averaged over the last ten months, constitutes their “average emoluments” under Regulation 2(d) read with Regulation 38, and their basic pension has to be fixed at 50% thereof in terms of Regulation 35. The respondent-Bank’s decision to ignore this actual pay and to compute pension on a lower, notional figure is thus directly contrary to the statutory scheme and runs foul of the principle in Palani’s case that statutory pension rights cannot be diluted by administrative instruments or unilateral understandings.

(Para 16)

Further held, that the plea of delay and laches also cannot defeat the petitioners' claim. The wrong complained of is not a one-time action but a continuing under-payment of pension in breach of statutory Regulations, and the petitioners have been pursuing representations culminating in the impugned communications. Pension is a recurring benefit and partakes the character of a continuing cause of action. In such matters, Courts have repeatedly taken the view that mere passage of time, in the absence of prejudice, should not stand in the way of rectifying an ongoing statutory infraction, particularly when the legal position has been clarified by the Supreme Court in a subsequent authoritative pronouncement. In the present case, the Bank does not assert any alteration of position or financial prejudice that would render it inequitable to grant relief and what is sought is only correct application of the existing Pension Regulations in the light of Palani's case

(Para 17)

Further held, that it is also directed that all the consequential arrears including pension and commutation, if any, shall be released to the petitioners within a period of 2 weeks from the date of receipt of a certified copy of this order, along with interest at the rate of 6% per annum from the respective dates on which the amounts became due till the date of actual payment.

(Para 20)

Bank of Baroda & Another v. G Palani & Others
2022 (5) SCC 612

(Para 6)

Arav Gupta, Advocate, *for petitioner* (CWP-29008-2019)

Petitioner in person (CWP-19844-2021)

Preeti Grover, Advocate for Saurav Verma, Advocate for the respondents

SANDEEP MOUDGIL, J.

(1) By this order, I shall dispose of the above-cited two writ petitions involving identical questions for adjudication by this Court. For the sake of order, CWP-29008-2019 is treated as the lead case.

(2) The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari quashing the impugned communication dated 18.07.2019 (Annexure P8), 11.02.2019 (Annexure P7), 27.12.2018 (Annexure P6) and 12.12.2017 (Annexure P5) qua the petitioners vide which the respondent-Bank has declined their claim for grant of pension on the basis of average emoluments drawn during the previous 10 months. They

further seek a direction to the respondents to grant them pension by counting the service rendered by them in the Gramin Banks sponsored by the respondent-Bank.

(3) The petitioners herein have all retired from the services of the respondent-Banks on attaining the age of superannuation and as such, they are in receipt of all the retiral dues including pension and commutation of pension etc. However, their grievance is that the determination of their pension has not been done in accordance with the provisions of the Punjab National Bank (Employees) Pension Regulations, 1995 (in short, the 1995 Regulations) which provide for determination of pension as 50% of the average emoluments which is the pay drawn by an employee during the last 10 months.

(4) Learned counsel for the petitioner submits that the petitioners were working in the Punjab National Bank from where they were deputed to the Regional Rural Banks (RRBs) which are sponsored by the respondent-Bank for some period and thereafter were transferred back to the parent organization i.e. the respondent-Bank from where they retired from service w.e.f. 30.09.2012 as DGM. For the purpose of illustration, the basic pay of the petitioner No.1 eligible for provident fund deduction was Rs.477530/-payable as per the last 10 months' basic pay of Rs.23876/-, however, the pension has been fixed at Rs.21802/- instead of Rs.23876/-. Similar was the case with the other petitioners who raised their issue through various representations including dated 12.11.2019 but the respondents have declined their request by passing the impugned orders.

(5) It is argued that as per Regulation 35(i)&(ii) of the 1995 Pension Regulations, the amount of pension is required to be calculated for an employee after completing a qualifying service and the amount of the basic pension shall be calculated at 50% of the average emoluments. He submits that as per Regulation 2(d) of the said Regulations, the average emoluments has been defined to mean the average of the pay drawn by an employee during the last 10 months of his service in the bank and the period of 10 months for average emoluments is to be determined as the period of the preceding 10 months for the purpose of average emoluments which shall be reckoned from the date of retirement as provided under Regulation 38 of the said Regulations.

(6) Learned counsel then contends that the present petitioners are entitled for calculation and grant of their pension w.e.f. the due date of their retirements by taking into account the actual pay drawn by them during the last 10 months of their retirements on the ground that though the petitioners were sent on deputation to other Gram Banks sponsored by the respondent-Bank and served there for some times, but they were

granted basic pay and were subjected to deduction of Provident Fund from their Basic Pays paid by the Banks and as such, they would fall within the definition of Regulation 2(s) read with Regulations 35 & 38 of the 1995 Regulations. Reliance has been placed on ***Bank of Baroda & Another versus G.Palani & Others***¹, wherein the Supreme Court has held that the provisions of 1995 Regulations have a binding force in law.

(7) On the other hand, on the basis of the averments made in the written statement dated 20.05.2025 filed by the respondents, learned counsel for the respondent-Banks averred that the petitioners were on deputation to RRBs and the pay drawn during such deputation was governed by the service conditions of the respective RRBs. He submits that as per Regulation 2(s) of the 1995 Regulations, the pay for pension purposes includes basic pay and allowances counted for provident fund contribution under the Punjab National Bank's service conditions in accordance with the clarification issued by the Ministry of Finance (Banking Division) vide letter dated 27.11.2019.

(8) It is further pointed out that the writ petition suffers from unexplained delay and laches as the petitioners had retired long before and as such, petitioners' failure to approach the appropriate authority within a reasonable time renders this writ petition liable to be dismissed moreso when the petitioners have failed to establish any violation of their fundamental or statutory rights. He further submits that the respondent-Bank has no legal duty to consider the pay drawn during deputation of the petitioners to the RRBs for pension commutation under the 1995 Regulations inasmuch as during deputation, the substantive pay that an officer would have drawn in the parent Bank is considered for calculating the average emoluments for the purpose of pensionary benefits and not the pay actually drawn by the officer in the higher scale in the loanee organization/Bank.

(9) Heard learned counsel for the parties and the judgment was kept reserved on 12.01.2026.

(10) From the rival submissions, the controversy lies in a narrow compass, namely, whether for the purpose of computing pension under the 1995 Regulations, the "average emoluments" of the petitioners are to be reckoned with reference to the actual pay drawn by them during the last ten months immediately preceding retirement including the higher pay drawn while on deputation to the Regional Rural Banks sponsored by the respondent-Bank, or whether the Bank is justified in ignoring such actual pay and restricting itself to the notional substantive

¹ 2022 (5) SCC 612

pay which the petitioners would have drawn in the parent Bank. The ancillary question is whether the respondent-Bank can, by placing reliance on the clarification/letter dated 27.11.2019 issued by the Ministry of Finance (Banking Division), override or dilute the scheme of the 1995 Regulations.

(11) Regulation 35 provides that on completion of qualifying service, the amount of basic pension shall be calculated at 50% of the “average emoluments”. Regulation 2(d) defines “average emoluments” to mean the average of the pay drawn by an employee during the last ten months of his service in the Bank, while Regulation 38 stipulates that the period of ten months is to be reckoned backwards from the date of retirement. “Pay” itself is defined in Regulation 2(s) to include basic pay and all components counted for the purpose of contribution to the Provident Fund and for payment of dearness allowance. Regulation 2(d), 2(s), 35 & 38, relevant in the present context read as under:-

“2. Definitions:

d) "**Average Emoluments**" means the average of the pay drawn by an employee during the last ten months of his service in the Bank;

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s) "**Pay**" includes,

(a) in relation to a workman who had either retired or died on or after the 1st day of January, 1986 but before the 1st day of November, 1992, and in relation to an officer who had either retired or died on or after the 1st day of January, 1986 but before the 1st day of July, 1993,-

- i) the basic pay including stagnation increments, if any, and
- ii) all allowances counted for the purpose of making contribution to the Provident Fund and for the payment of dearness allowance;

(b) in relation to a workman who had retired or died while in service on or after the 1st day of November, 1992; and in relation to an officer who retired or died while in service on or after the 1st day of July, 1993, -

- i) the basic pay including stagnation increments, if any; and
- ii) all other components counted for the purpose of making contribution to the Provident Fund and for the payment of dearness allowance; and
- iii) increment component of Fixed Personal Allowance;

iv) dearness allowance thereon on the above calculated up to index number 1148 points in the All India Average Consumer Price Index for Industrial Workers in the series 1960 = 100.

(c) in relation to an employee who retired or died while in service on or after the 1st day of April, 1998-

i) the basic pay including stagnation increments, if any; and

ii) all other components of pay counted for the purpose of making contribution to the Provident Fund and for the payment of dearness allowance; and

iii) increment component of Fixed Personal Allowance; and

iv) dearness allowance thereon on the above calculated up to index number 1616 points in the All India Average Consumer Price Index for Industrial Workers in the series 1960 = 100.

Explanation:

For the purpose of this clause basic pay, other components of pay and Fixed Personal Allowance would mean the basic pay, other components of Pay and Fixed Personal Allowance drawn by the employee in terms of the scales of pay as applicable and rates at which the other components of pay were payable prior to 1.11.1997 (in the case of workmen) and prior to 1.4.98 (in the case of officers);

(d) in relation to an employee who retired or died while in service on or after the first day of May, 2005 the basic pay including stagnation increments, if any, and Special pay, Graduation Pay, Professional Qualification Pay, increment component of Fixed Personnel Pay and Officiating Pay, if any, drawn by the employee during the last ten months of his service in the Bank:

Provided that with effect from 1st day of May, 2005 the provisions of this clause shall have effect in relation to an employee who retired or died while in service on or after 1st day of April, 1998 but before 30th day of April, 2005.”.(Amended in Dec 2017)”

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“35. Amount of Pension.

(1) In respect of employee who retired between the 1st of January 1986 but before the 31st day of October 1987, basic pension and additional pension will be updated as per the formula given in Appendix-I.

(2) In the case of an employee retiring in accordance with the provision of the Service Regulations or Settlement after completing a qualifying service of not less than thirty-three years the amount of basic pension shall be calculated at fifty per cent of the average emoluments.

(3) (a) Additional pension shall be fifty per cent of the average amount of the allowance drawn by an employee during the last ten months of his service;

(b) no dearness relief shall be paid on the amount of additional pension.

Explanation: - For the purpose of this sub-regulation "allowance" means allowance which are admissible to the extent counted for making contributions to the Provident Fund.

(4) Pension as computed being aggregate of sub-regulation (2) and (3) above shall be subject to the minimum pension as specified in these regulations.

(5) An employee who has commuted the admissible portion of his pension as per the provisions of Regulation 41 of these Regulations shall receive only the balance of pension, monthly.

(6) (a) In the case of an employee retiring before completing a qualifying service of thirty-three years, but after completing a qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible under sub-regulations (2) and (3) and in no case the amount of pension shall be less than the amount of minimum pension specified in these regulations.

(b) Notwithstanding anything contained in these regulations, the amount of invalid pension shall not be less than the ordinary rate of family pension which would have been payable to his family in the event of his death while in service.

(7) The amount of pension finally determined under these regulations shall be expressed in whole rupee and where the pension contains a fraction of a rupee, it shall be rounded off to the next higher rupee.”

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“38. Determination of the period of ten months for average emoluments. –

(1) The period of the preceding ten months for the purpose of average emoluments shall be reckoned from the date of retirement.

(2) In the case of voluntary retirement or premature retirement, the period of the preceding ten months for the purpose of average emoluments shall be reckoned from the date on which the employee voluntarily retires or is premature retired by the Bank.

(3) In the case of dismissal or removal or compulsory retirement or termination of service, the period of the preceding the months for the purpose of average emoluments shall be reckoned from the date on which the employee is dismissed or removed or compulsorily retired or terminated by the Bank.

(4) If during the last ten months of the service, an employee had been absent from duty on extraordinary leave on loss of pay or had been under suspension and the period whereof does not count as service, the aforesaid period of extraordinary leave or suspension shall not be taken into account in the calculation of the average emoluments and equal period before the ten months shall be included.”

(12) On a plain reading, therefore, once it is undisputed that during the relevant last ten months the petitioners were in fact drawing a particular basic pay with attendant PF deductions while on deputation to the sponsored RRBs, that actual pay answers the description of “pay” and must enter the computation of “average emoluments”.

(13) The respondent-Bank’s stand is that, notwithstanding the above definitions, for pension purposes only, the pay notionally admissible under the parent Bank’s service conditions can be taken into account, and not the higher scale actually drawn on deputation in the RRBs, and that this position is fortified by the Ministry’s clarification dated 27.11.2019. This submission, however, cannot be accepted in view of the law laid down by the Hon’ble Supreme Court in *G. Palani* (supra). In that case, the Court was concerned with the Bank of Baroda (Employees’) Pension Regulations, 1995, which are in *pari materia*, and with Explanation (c) inserted in Regulation 2(s) whereby an attempt was made, through a later amendment/settlement, to depart from the basic scheme of computing pension on the actual last drawn pay by introducing a different basis for a certain segment of retirees.

(14) The Supreme Court, after adverting to the scheme of the Regulations and to Regulations 2(d), 2(s), 35 and 38, held in unequivocal

terms that the Pension Regulations, having been framed in exercise of statutory power, have the force of law and cannot be amended, altered or whittled down by way of settlements, circulars or administrative instructions. It was specifically observed that Explanation (c) to Regulation 2(s) “did not have the effect of amending the Regulations relating to pension, as contained in Regulation 38”, and that any executive device that has the effect of depriving an employee of pension computed on the basis of actual last drawn pay would be arbitrary and unsustainable. On that reasoning, the Explanation was struck down to the extent it brought about such a departure, and the employees were held entitled to pension on the footing of their actual pay during the last ten months. The relevant portion of the said judgment read as under:-

“15. Now what is provided under the Regulations is that an employee is entitled to calculation of his pension, as provided in Regulations 38(1) and 38(2) in the case of voluntary retirement or premature retirement, and the period of the preceding 10 months for the purpose of emoluments shall be reckoned from the date on which the employee had been voluntarily retired or prematurely retired by the bank. A plain and literal reading of the provisions contained in Regulation 38 makes it crystal clear that its emphasis is on the preceding 10 months. The average emoluments no doubt take into consideration the pay but by deeming fiction, by simply amending and adding Explanation (c) in Regulation 2(s) the mandate of Regulation 38(2) had not been taken away and even otherwise could not have been taken away that too with the retrospective effect, which provides pension to be worked out on the basis of average emoluments of preceding ten months. It is apparent that Regulations 38(1) and 38(2) have not been amended in any manner whatsoever. Thus, the provisions are in conflict with Explanation (c) of Regulation 2(s) that had been added, which defined pay with retrospective effect. Apparently for the purpose of pension, the clear provisions in Regulations 38(1) and 38(2) have to be considered as preceding ten months “from the date of retirement” and not as per Explanation (c) to Regulation 2(s) what was drawn in the preceding ten months before 1-4-1998. The interpretation of Regulation 38(2) as per deeming fiction of Regulation 2(s)(c) is wholly impermissible. That it is not permissible to add or subtract any word in a provision is a settled principle of statutory interpretation.

16. Similarly, the provisions contained in Regulation 35 also

make an incumbent entitled for opting the pension on the basis of average emoluments. The average emoluments have to be calculated on the basis of the preceding ten months. Adding Explanation (c) to Regulation 2(s), as done, could have created no fictional basis in view of clear and unambiguous provisions in other provisions of the Regulations. Besides, the definition of the “average emoluments” in Regulation 2(d) itself makes it clear that it is average pay drawn “during the last ten months” of his service by an employee. It cannot mean pay drawn by the employee even before several years. Mentionably there is no amendment made in the aforesaid provision of Regulation 2(d) and the expression during the preceding last ten months before date of retirement is clearly culled out in Regulations 38(1) and 38(2)...

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29. Thus, in our opinion, the Regulations which were in force till 2003, would apply with full force and as a matter of fact, the amendments made in it by addition of Explanation (c) in Regulation 2(s) did not have the effect of amending the Regulations relating to pension, as contained in Regulation 38 read with Regulations 2(d) and 35 of the 1995 Regulations. Even otherwise, if it had the effect of amending the pay and perks “average emoluments”, as specified in Regulation 2(d), it could not have operated retrospectively and taken away accrued rights. Otherwise also, it would have been arbitrary exercise of power. Besides, there was no binding statutory force of the so-called Joint Note of the Officers' Association, as admittedly, to Officers' Association even the provisions of Industrial Disputes Act were not applicable and joint note had no statutory support, and it was not open to forgo the benefits available under the Regulations to those officers who have retired from 1-4-1998 till December 1999 and thereafter, and to deprive them of the benefits of the Regulations. Thus, by the Joint Note that has been relied upon, no estoppel is said to have been created. There is no estoppel as against the enforcement of statutory provisions. The Joint Note had no force of law and could not have been against the spirit of the statutory Regulations and the basic service conditions, as envisaged under the Regulations framed under the 1970 Act. They could not have been tinkered with in an arbitrary manner, as has been laid down by this Court in *Central Inland Water Transport Corpn. Ltd. v. Brojo Nath*

Ganguly [Central Inland Water Transport Corpn. Ltd. v. Brojo Nath Ganguly, (1986) 3 SCC 156 : 1986 SCC (L&S) 429] and DTC v. Mazdoor Congress [DTC v. Mazdoor Congress, 1991 Supp (1) SCC 600 : 1991 SCC (L&S) 1213] ...”

(15) Viewed against ratio of *Palani*, in the present case, the substantive Pension Regulations of PNB adopt the same model i.e. pension at 50% of “average emoluments”, with “average emoluments” tied to actual “pay” during the last ten months, and “pay” tied to actual basic pay and PF-counted components. The attempt of the respondent-Bank is, in substance, to read into Regulation 2(s) a restriction that, for employees who served on deputation in RRBs, only the notional substantive pay under PNB’s scale can be considered, regardless of the higher actual pay drawn and subjected to PF deductions in the deputation post. The Ministry’s letter dated 27.11.2019 merely reflects this administrative understanding. In light of *Palani*, such an approach is impermissible, for, an executive clarification cannot operate to amend, cut down or neutralise the plain terms of the Pension Regulations, nor can it deprive an employee of the benefit of having his pension computed on the actual pay that he did, in fact, draw in the crucial period.

(16) Once it is found, as it must be on the admitted facts, that during the last ten months prior to retirement the petitioners were drawing a particular rate of basic pay in the RRBs and that such pay was the basis for Provident Fund contribution under the arrangement obtaining between the sponsor Bank and the RRBs, it necessarily falls within “pay” for the purposes of Regulation 2(s). That pay, averaged over the last ten months, constitutes their “average emoluments” under Regulation 2(d) read with Regulation 38, and their basic pension has to be fixed at 50% thereof in terms of Regulation 35. The respondent-Bank’s decision to ignore this actual pay and to compute pension on a lower, notional figure is thus directly contrary to the statutory scheme and runs foul of the principle in *Palani’s* case that statutory pension rights cannot be diluted by administrative instruments or unilateral understandings.

(17) The plea of delay and laches also cannot defeat the petitioners’ claim. The wrong complained of is not a one-time action but a continuing under-payment of pension in breach of statutory Regulations, and the petitioners have been pursuing representations culminating in the impugned communications. Pension is a recurring benefit and partakes the character of a continuing cause of action. In such matters, Courts have repeatedly taken the view that mere passage of time, in the absence of prejudice, should not stand in the way of rectifying an

ongoing statutory infraction, particularly when the legal position has been clarified by the Supreme Court in a subsequent authoritative pronouncement. In the present case, the Bank does not assert any alteration of position or financial prejudice that would render it inequitable to grant relief and what is sought is only correct application of the existing Pension Regulations in the light of *Palani*'s case

(18) For the aforesaid reasons, this writ petition is allowed and the impugned communications dated 12.12.2017, 27.12.2018, 11.02.2019 and 18.07.2019, to the extent they reject the petitioners' claim for fixation of pension on the basis of the actual average emoluments drawn during the last ten months of service including the deputation to the Regional Rural Banks, are, accordingly, quashed qua the petitioners.

(19) Accordingly, the respondent-Bank is directed to re-compute the pension of the petitioners under the 1995 Regulations, by taking into account, for the purpose of "average emoluments", the actual pay drawn by them during the last ten months immediately preceding their retirement, inclusive of the pay drawn on deputation in the sponsor RRBs.

(20) It is also directed that all the consequential arrears including pension and commutation, if any, shall be released to the petitioners within a period of 2 weeks from the date of receipt of a certified copy of this order, along with interest at the rate of 6% per annum from the respective dates on which the amounts became due till the date of actual payment.

(21) Ordered accordingly.

(22) Pending application(s), if any, stands disposed of.

Reporter-Shubreet Kaur